



Office - Supreme Court, U. S.

FILED

OCT 5 1940

CHARLES ELMORE CROPLEY
CLERK

IN THE
Supreme Court of the United States

October Term, 1940.

No. 322.

J. EMORY ADAMS, SEYMOUR WEISS and
LOUIS C. LESAGE,
Petitioners,

vs.

UNITED STATES OF AMERICA.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES CIRCUIT COURT OF APPEALS FOR
THE FIFTH CIRCUIT.

**PETITIONERS' REPLY TO MEMORANDUM OF
THE UNITED STATES.**

DAVID V. CAHILL,
Of Counsel for Petitioners.



IN THE
Supreme Court of the United States

OCTOBER TERM, 1940.

J. EMORY ADAMS, SEYMOUR WEISS,
and LOUIS C. LESAGE,

Petitioners,

AGAINST

UNITED STATES OF AMERICA.

No. 322.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

Petitioners' Reply to Memorandum of the United States.

The Government opposes the filing of the Additional and Supplemental Petition upon two grounds:

(1) The petitioners are attempting to render nugatory the 30 day rule applicable to the filing of a writ of certiorari in a criminal case.

(2) The Government has already filed a brief in opposition to the petition for writ of certiorari as originally framed.

Neither ground is sound in fact or logic. Petitioners' application does not seek to avoid the 30 day rule. The original petition was filed within 30 days after entry of the judgment of the Circuit Court of Appeals as required

by Rule 11, Criminal Appeals Rule. This motion was made returnable on the first available motion day. No delay is sought by petitioners and none can result from the granting of this motion. The petitioners simply seek, as stated in their petition, to be permitted to file "in more concise form the reasons for granting the writ and arguments therefor, and additional grounds and arguments not contained in the prior petition".

If the application has been mislabeled and should have been for leave to file an Additional and Supplemental Brief in support of the original petition, the Court may consider it as such. However, the reasons and arguments therein advanced by counsel as worthy of this Court's consideration should not be rejected without regard to their merit simply because the Government has filed a brief, which may, or may not, answer said reasons and arguments. Counsel respectfully submits that it is desirable in the interests of justice that all existing grounds and reasons either in support of or against the granting of the writ should be brought to the Court's attention and passed upon.

The filing of such a petition is not without precedent. In *Weinhandler v. United States*, October Term, 1927, Case No. 481, counsel for petitioners was granted permission, on motion, to file in that case a second and more concise petition, supplementing or taking the place of one previously filed. Counsel respectfully asks that the reasons and grounds stated in the Additional and Supplemental Petition be considered by this Court in deciding whether the writ of certiorari shall issue as prayed for by petitioners.

Respectfully submitted,

DAVID V. CAHILL,
Of Counsel for Petitioners.

